

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF TEXAS
TYLER DIVISION

DataTreasury Corporation	§	
<i>Plaintiff</i>	§	
	§	
v.	§	CIVIL ACTION NO: 6:11cv92
	§	JURY DEMANDED
Capital One Financial Corporation;	§	
<i>Defendants</i>	§	

AGREED MOTION TO DISMISS PROSPERITY DEFENDANTS

Pursuant to Rule 41(a) of the Federal Rules of Civil Procedure and the terms of a separate Settlement, Release and License Agreement, the Plaintiff, DataTreasury Corp. (“DTC”) and Defendants Prosperity Bank and Prosperity Bancshares, Inc. (collectively “Prosperity Defendants”) have agreed to settle, adjust and compromise all claims and counterclaims against each other in the above-captioned action. The parties move this Court to dismiss with prejudice in the above-entitled cause any and all claims by DTC against the Prosperity Defendants and to dismiss any and all counterclaims by the Prosperity Defendants against DTC.

DTC and the Prosperity Defendants also move the Court to order that all costs and expenses relating to this litigation (including attorney and expert fees and expenses) shall be borne solely by the party incurring same. Other than the Prosperity Defendants, no other defendants shall be dismissed as a result of this Motion.

A proposed Order accompanies this motion.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I certify that on August 2, 2012, all counsel who are deemed to have consented to electronic service are being served with a copy of this document via electronic transmission.



NIX PATTERSON & ROACH, L.L.P.